

**A Presentation made on behalf of  
aggrieved landowners on the shore of  
Lake St.Clair in the  
Village of Grosse Pointe Shores  
Wayne County Michigan  
entitled**

**DREDGE, LANDSCAPE OR PERISH**

**before a**

**Joint meeting of the  
Senate and House Committee  
on Natural Resources, Great Lakes  
Land Use and Environment**

**3:00 p.m. Tuesday,  
May 9, 2006  
Room 519 South  
House Office Building  
124 North Capitol Avenue,  
Lansing, Michigan**

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**DREDGE, LANDSCAPE OR PERISH!** These are the alternatives facing 33 homeowners in the Village of Grosse Pointe Shores, a residential community in the extreme northeast corner of Wayne County, with a population of just under 5,000. The 33 homes are bounded on the west by Lake Shore Road and on the east by Lake. St.Clair. The properties run about a mile along the shore and will be referred to "The Mile." At one time these were probably the most expensive residential properties in Michigan but they aren't today. Man, in the form of the Village of Grosse Pointe Shores, deliberately, and Nature, in response, have rendered the homes practically unmarketable, something that will have a considerable impact upon the tax base of the community and Wayne County as well. Here is why!

A the south end of The Mile lies the public park of the Village of Grosse Pointe Shores. Next to it, to the south, lies the Grosse Pointe Yacht Club, a private club. Both lie at the foot of Vernier road, sometimes (erroneously) called Eight Mile road. There was an inlet to the public from the north with a beach. To prevent the drifting of sand and other debris, the Village blocked up the entrance from the lake and later extended its boat harbor out into the lake by using a breakwall parallel to that of the GPYC. Both entities **sealed off** the natural flow of water which passed under a bridge or other form of conduit. Lake St. Clair has a current of about 5 miles per hour. Mother nature promptly started backing up the sand etc., along the seawall of the The Mile parts of which go back to the 1920s. Baird & Co., an engineering firm backs up the obvious. A exemption from the various acts pertaining to accretion attributable, albeit initially, to the acts of man. See letter of Mary Anne Lahood, another aggrieved shoreowner.

Now instead of the waves of Lake St.Clair lapping at the owners' breakwall, a pile of sand and clay 2 to 4 feet thick lies against the breakwall and extends out into the lake anywhere from a few feet at the northern extremity to as much as 100 yards further south. The amount is estimated at 160,000 cubic yards. Most of it is compact enough to drive on. It takes a mighty big Nor-easter' to have waves break over the barrier. Puddles accumulate, of course, from rainwater. At the water's edge it slopes down at about a 20 degree angle into the water which is about 4 inches in depth. At its widest point it is at least 75 yards, a big enough space, at any rate, for the Detroit Lions to play the Buffalo Bills before a crowd of 25,000 people. This illustration is used because the Lions' owner lives just beyond the reach of the accretion (for now) and the Bills' owner lives on the south end where his land takes the full brunt of the accumulation. Rankin Peck who lives about half way between them has a boathouse (which you can see in the illustration) about 35 yards from the water's edge. The entire accumulation on the lakeside of the Peck house beyond the seawall is 55 yards of solid soil with another 5 to 10 yards beyond that to the water's edge. This latter accumulation is soft, mucky and malodorous. Illustrations attached speak the usual 1000 words.

About forty years passed before some of the owners on The Mile did something besides protest to the Village fathers. They brought suit in 2000 in Wayne County Circuit Court to require the Village and the GPYC to join in dredging the accreted material, each entity, including the plaintiffs to bear a reasonable amount of the cost. After the usual pre-trial jawing, the case was dismissed **without prejudice** in order to let the Corps of Army Engineers come up with a solution. The Corps has the last word because Lake St.Clair is considered part of the Great lakes. Moreover, the accreted material, in all probability, lies beyond the patent line.

In the meantime, this three foot pile of accreted land is host to all sorts of flora and fauna, most of the latter being rats--alive, and washed up fish--dead. The DEQ has no objection to the homeowner abating the nuisance of this type of fauna but it has strict rules about cutting down some of the flora and even regulates lawn mowing. Grass is, of course, creeping in on its own but the extent of its mowing is regulated: no lower than two inches (no problem) but only in a 100 foot swath. That is a problem when your lot is 180 to 200 feet in width. Beach maintenance activity, as this is called, is covered by Part 325 of the Great Lakes Submerged lands Act MCLA 324.32512. This act is subject to a sunset provision, and the sun goes down in June of 2006. Pursuant to section 16 of the Act, the DEQ has prepared and submitted for public hearing and consideration by the legislature a replacement for Act 325.

It is somewhat unclear in the law, Sec. 32516 of The Great Lakes Submerged land Act as to whether a permit is needed to mow the inevitable growth of grass on the accreted material. However, the Wetlands Protection Act of 1994 says that until November 1, 2007, you can mow the lawn without a permit but no more than 100 feet and cannot remove any vegetation outside of the 6 foot swath -period!. The DEQ seems to be hipped on the 100 foot limitation. Unless a revision of the law permits mowing the full area of accreted land in front of the abutting landowner, it discourages the landowner from doing anything. This is a case where "half a loaf" won't do. It seems extraordinary for the State to require a landowner who wants to mow the full extent of his lawn to have to go through the procedure provided in the Wetland Act, Section 30302A. The 100 foot stricture should be eliminated.

Now comes the Department's proposal to replace the sunset laws. It proposes that beachowners be permitted to establish and

THE RELIEF SOUGHT:

- (1) Permit lawn mowing on accreted land consonant with the width of the abutting property;
- (2) Permit landscaping of such property.
- (3) Exempt remedial measures on accretion caused initially by the action of man.

May 9, 2006

  
Hudson Mead

maintain a 6 foot wide pathway to the water's edge. That doesn't do anything for the owners along The Mile who, if they did have a boat, could not put it in at the end of the embankment because of the low depth of the water. To forbid the cutting of other vegetation, as the DEQ proposes, is madness!

What would be ideal, while the owners along The Mile wait for the Army engineers to address the subject of dredging, is to permit The Mile owners to landscape their properties in a manner consonant with the way 99% of the owners of homes in the Grosse Points care for their own properties. That will be tedious on the part of private citizen and governmental authority but can be done by making the provisions of Sec. 30306 of the Wetlands protection Act permit landscaping by permit if you will. It is believed that almost all owners on The Mile would take immediate steps to eliminate the eyesore in their ever expanding "backyards" beyond their sea walls which now serve no useful purpose whatever.

Why not just wait out the Army Corps of Engineers? A forest could grow on the accreted land during the wait. And what if the Corps brought the Canadian-American International Waterway Commission into the act? Abandon hope!

Senator Martha Scott and Representative Edward Gaffney, the aggrieved parties' legislators were kind enough to conduct a hearing at the Grosse Pointe War Memorial on January 12, 2006 to which the DEQ sent Andrew Hartz, (a Grosse Pointer himself) and a district supervisor with the DEQ so the Department of Environmental Quality is well aware of the need of The Mile Owners for relief. Other landowners have filed petitions for relief over the years with the DEQ so it is no stranger to the plight of the landowners on The Mile who, incidentally, notwithstanding their perceived affluence, have the same rights as everybody else- no more, no less!

# Stink raised over buildup of accretion

By Brad Lindberg  
Staff Writer

During his 35 years reporting news on Channel 2, Joe Weaver was the Detroit broadcast market's equivalent of E.F. Hutton. When Weaver spoke, people listened.

Speaking last week with the same confident voice the retired newsmen broadcasted issues of his day, Weaver showed he still doesn't pull punches.

"Things are changing in a different direction in the Grosse Pointes," said Weaver, a Grosse Pointe Shores homeowner.

He spoke to about 100 people gathered at the War Memorial to discuss consequences of soil and vegetation building up along parts of the once-unobstructed Lake St. Clair shoreline.

"I don't know how many of you have had your property appraised in the last couple of weeks," Weaver said. "We had ours appraised. We lost about \$500,000 value."

Most of Weaver's problem is the soft real estate market for expensive homes.

Many people he was speaking to while moderating a forum on accretion organized by Sen. Martha Scott, D-Highland Park, fear property values will drop even more. They fear the shine of Grosse Pointe living is being tarnished by a shoreline clogged with washed up sand, overgrown weeds, smelly dead fish and rotting vegetation.

Main examples are north of municipal harbors in the Farms and Shores.

## Red alert

"I'm warning you — warning the municipalities, warning everybody — if you

estate properties drop," said Hugo Higbie, Farms resident and more than 50-year veteran of the local real estate industry.

If accretion goes unchecked, Higbie told the War Memorial gathering, economic fallout affecting shoreline homeowners is sure to migrate inland.

"This is one of the most serious problems I've seen in Grosse Pointe today," Higbie said. "Lake St. Clair is incredibly valuable to all Grosse Pointe. We have to protect that water. We have to protect that shoreline."

Decreased lakefront property values could trigger cascading effects throughout the Pointes.

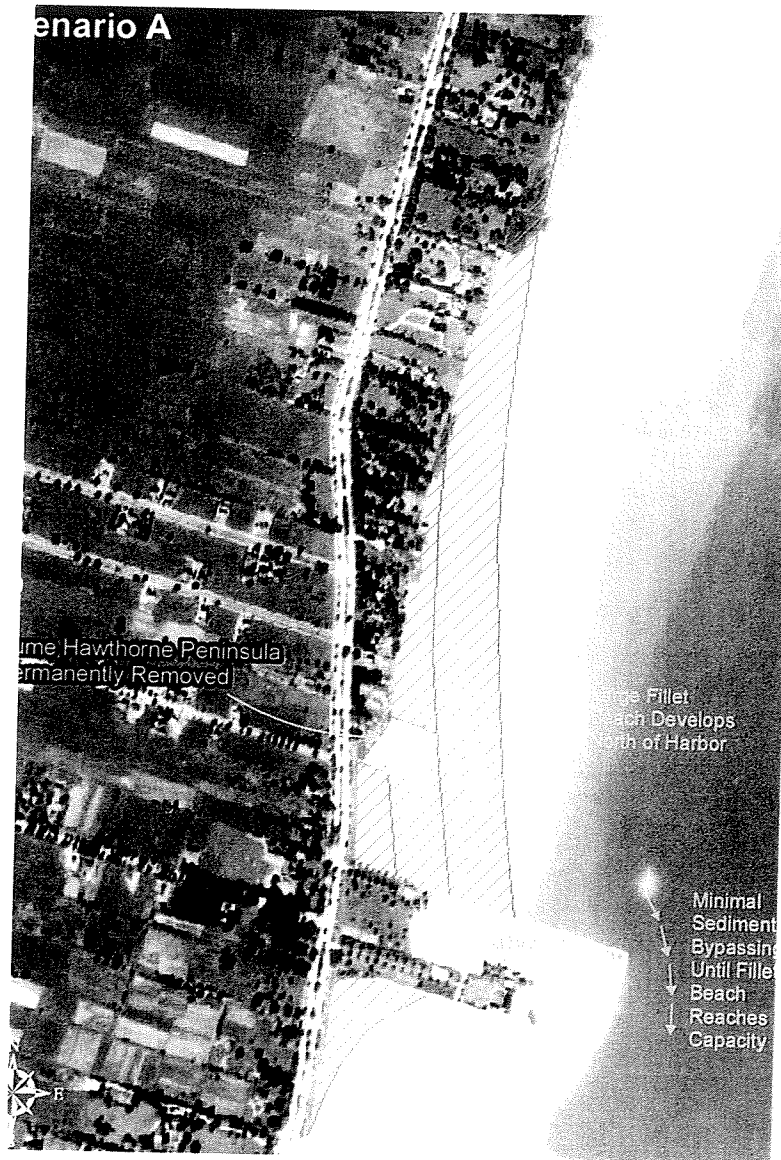
Reduced home values mean reduced tax assessments, which, unless property tax rates are increased, mean less revenue for cities to maintain high levels of services that help make the Pointes a desirable place to live and invest in houses.

"If we don't do something about this and it gets worse, people who live along the shore will mass together and say we want our taxes reduced by half," said Rankin Peck, Shores resident. "Who's going to pick that up? The other 54,000 people who live in the Grosse Pointes."

Peck's family has owned a house in the 800 block of Lakeshore for 65 years.

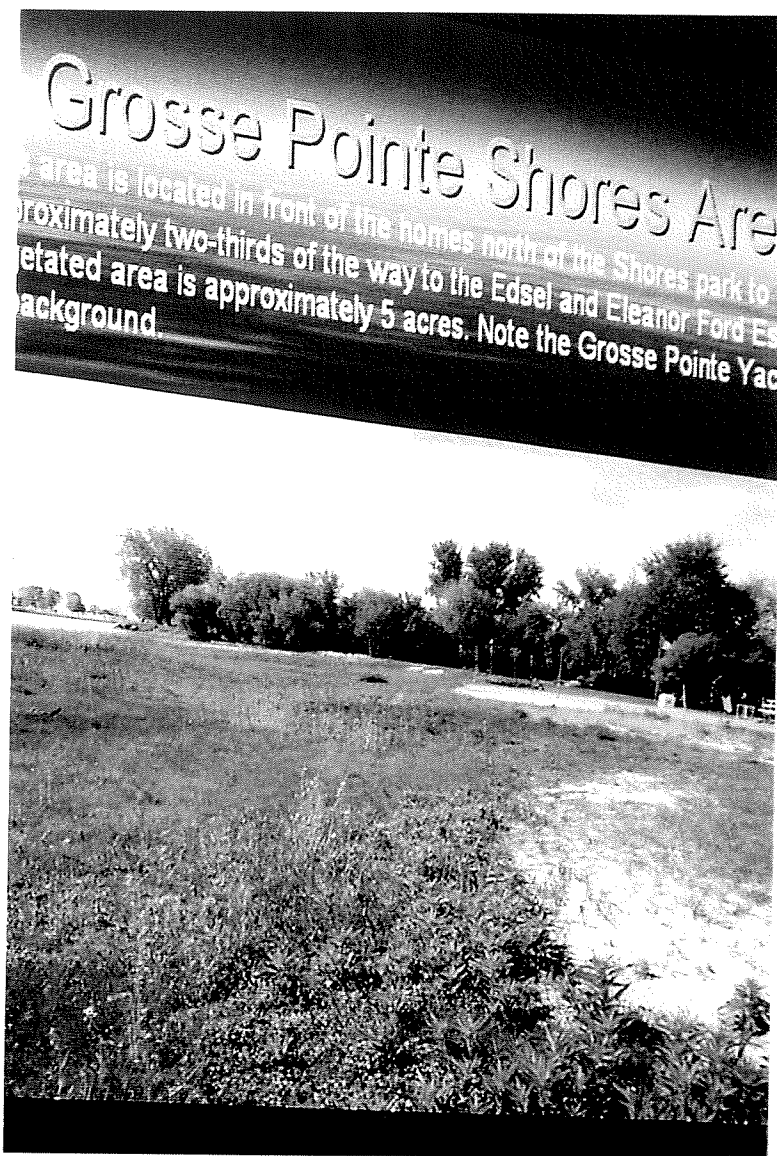
For most of that time, the back yard overlooked a boathouse propped over at least three feet of water lapping against the seawall.

In recent years, as accretion piled up along the shoreline and waves succumbed to scrub grass, shrubs and weed trees, Peck's boathouse has



Cross marks show area of accretion and Village of Grosse Pointe Shores Public Park and Grosse Pointe Yacht club at bottom





Random photo



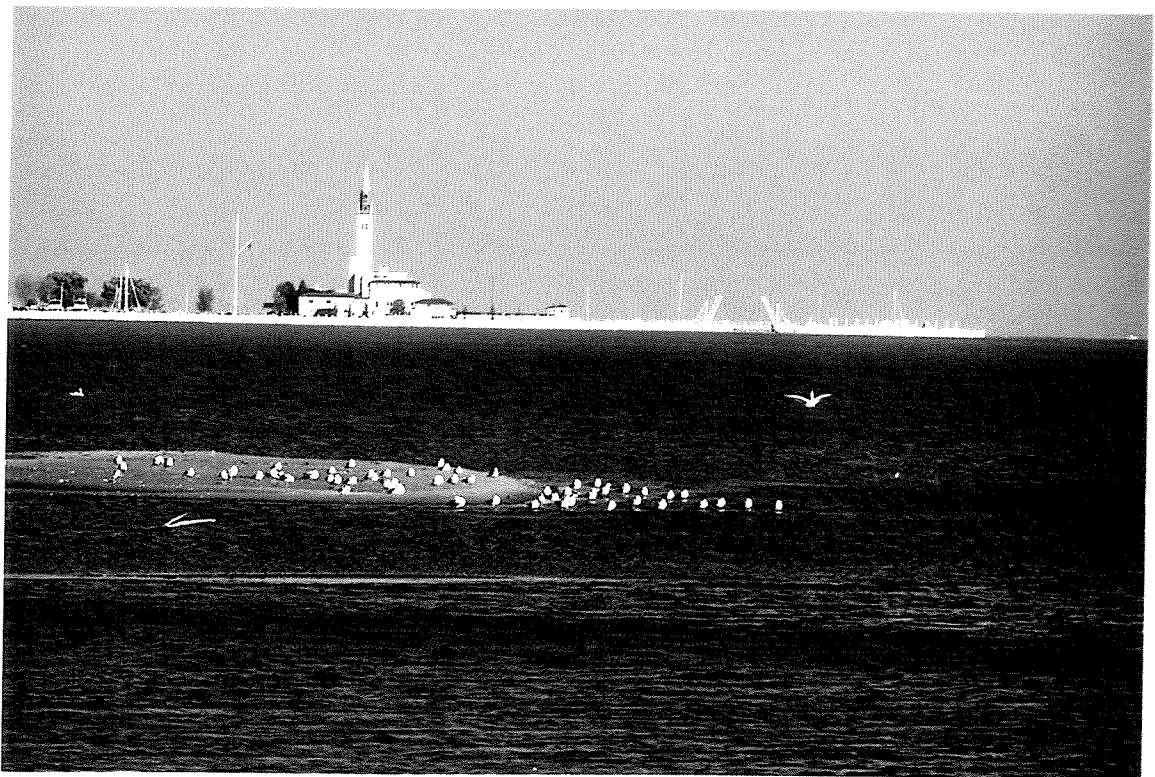
Water side of seawall at 900 Lake Shore Road



Peck property at 880 Lake Shore Road in early stages



Looking North from southernmost property  
Peck boathouse in distance

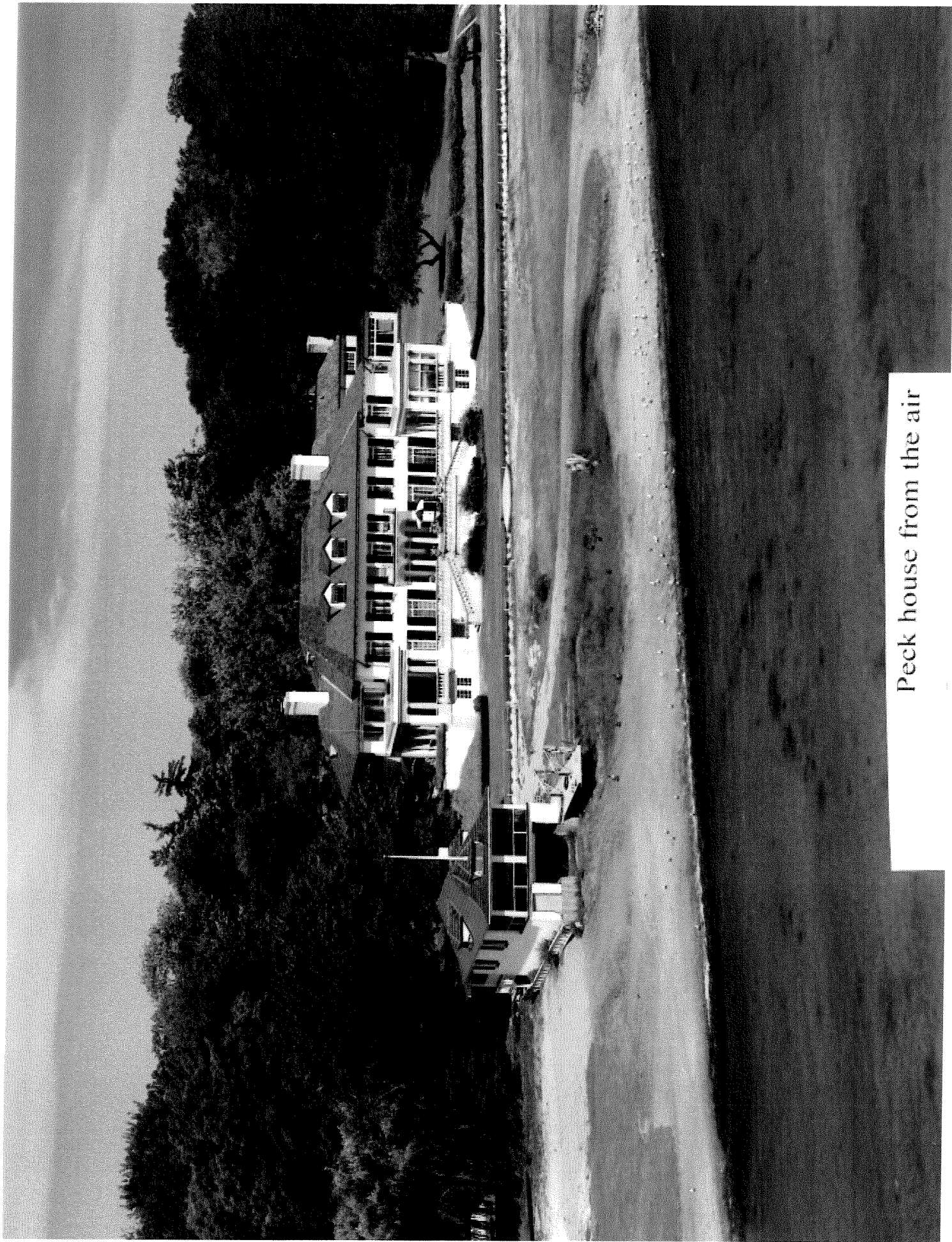


The Grosse Pointe Yacht club from the south  
(That's the way the shore used to look on the  
north--without the island!)



Typical appearance of accreted land





Peck house from the air

Mary Anne LaHood  
20 Stillmeadow Lane  
Grosse Pointe Shores  
Michigan, 48236-1118

May 2, 2006

TO: The Michigan Department of Environmental Quality  
Lansing, Michigan

Regarding: Shoreline grooming

It is my understanding that for the sake of the Public Trust for the people of the State of Michigan, you will be changing the rules for shoreline grooming. The concept seems very good. However, I think it is important that you remember to clearly distinguish between accretion that is formed as a result of an unnatural occurrence, and wetlands.

In Grosse Pointe Shores, and in Grosse Pointe Farms there are in both instances harbor structures designed with the express purpose of barring littoral transport through. The result of the Grosse Pointe Shores/Grosse Pointe Yacht club structure has resulted in 60 acres of accretion, the nuisance of which is growing daily. Grosse Pointe Farms likewise, has a growing situation. By your own staff's account, very little of this accretion build-up is wetlands.

I think it is crucial at this point to remember 2 things: First, that you should not systematically lump together all accretive build-up, and call it wetlands. And secondly, you need to demand that harbors in the State of Michigan, retrofit their walls to allow for flow-through.

Thank you.

Sincerely,

Mary Anne LaHood